IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.144 OF 1997

The Commissioner of Income Tax
Nasik .. Applicant.
V/s.
Godavari Mahar SSK Ltd., Shankar-
nagar, Dist Nanded .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the ITAT relying on the Special Bench of ITAT Pune's decision in the case of Shri Chatrapati SSK Ltd. (198 ITR 78 - AT) was right in deleting the following additions by holding that the various funds and deposits are not trading receipts of the assessee as held by the Supreme Court in the case of Bazpur Co-op. Sugar Factory Ltd. (172 ITR 321) ?
>
> 1. Non-refundable deposit Rs.9,45,628
> 2. Cane development fund Rs.1,33,552
> 3. Famine relief fund Rs.1,33,552
> 4. Factory education fund Rs. 94,562

2. In so far as all other items except cane development fund is concerned, the issue is covered

by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as cane development fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issue stands remanded back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)